

Title	Service of Summons: <i>Proof of Service of Summons</i> (revise form POS-010) (formerly 982(a)(23)); repeal Rule 982.9 (Typewritten proof of service forms)
Summary	The proof of service of summons, a form which was last revised in 1987, would be revised to conform to the contemporary format of Judicial Council forms and to contain more space for information. Rule 982.9, which permits typewritten proofs of service of summons, would be repealed because it is obsolete and no longer needed.
Source	Civil and Small Claims Advisory Committee
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Discussion	<p><u>Proof of Service</u> <i>Proof of Service (Summons)</i> (form 982(a)(23)) was last revised effective January 1, 1987. It does not conform to the contemporary format of Judicial Council forms and could be improved in several respects. <i>Proof of Service of Summons</i> (form POS-010) is the revised version of the form. The form would be renumbered to be identifiable as one of the new Proof of Service ("POS") forms. Its caption and other features would be revised to conform to contemporary Judicial Council format and style.</p> <p>The revised form would contain two pages rather than one to provide more space for information. Specifically, it will provide more space for listing the documents served and for information about the party served, the person who served the documents, and other matters.</p> <p>Form POS-010 will enable parties to comply with Code of Civil Procedure section 417.10(f), which requires that all proofs of personal service of summons must be in a form adopted by the Judicial Council.¹</p> <p><u>Rule 982.9</u> Rule 982.9 of the California Rules of Court authorizes proofs of service prepared entirely by typewriter, word processor printer, or similar process to be used for proof of service of summons if certain conditions are met. This rule was adopted in the 1980s. At that time, Judicial Council forms were often completed using typewriters. Some attorneys complained about the problems of using printed forms with computers and word processing equipment. A 1987 report noted that</p>

¹ The *Summons* forms will continue to have a one-page proof of service on the reverse side. Parties may use either these forms or form POS-010 to show service of a summons.

"[p]rinted forms must be hand-fed into the computer or specially arranged in the proper order in a sheet feeder. If the forms could be entirely produced by computer or word processing equipment, continuous form paper or blank paper in a sheet feeder could be used." (Mandatory Form: Proof of Service (Summons); Word-Processor Production of Forms, *Report to the Superior Court Committee, Judicial Council of California*, May 5, 1987, page 4.) The report noted that "presently laser printers are fairly expensive and the software to produce forms on a laser printer is both relatively scarce and costly." (*Id.*, page 8.)

Developments in technology have made rule 982.9 obsolete. It is no longer physically difficult or unduly expensive to complete and print out a Judicial Council form on a computer. In fact, in the spring of 2003, all of the Judicial Council forms will be made available in fillable versions at the Self-Help Center on the Judicial Council's Web site (<http://www.courtinfo.ca.gov>). Hence, parties will be able to complete Judicial Council forms on line, including *Proof of Service of Summons* (form POS-010) once it is approved.

Under these circumstances, rule 982.9 authorizing typewritten proofs of service for service of summons is no longer needed and should be repealed.

A copy of form POS-010, which would be approved, and of rule 982.9, which would be repealed, are attached.

Attachments

PROPOSAL

Rule 982.9 of the California Rules of Court, whose text is set forth below, would be repealed, effective January 1 2004:

1 Rule 982.9. Typewritten proof of service forms

2
3 (a) [Typewritten forms; conditions] Notwithstanding mandatory form
4 982(a)(23), a *Proof of Service (Summons)* form prepared entirely by
5 typewriter, word processor printer, or similar process may be used for
6 proof of service in any applicable action or proceeding if the following
7 conditions are met:

8
9 (1) Rules 201 and 501 shall be observed except as otherwise provided
10 in this rule, but numbered lines shall not be required.

11
12 (2) The left, right, and bottom margins shall be at least one-half inch.
13 The top margin shall be at least three-quarters of an inch. The
14 typeface shall be Times, Courier, or an equivalent roman typeface
15 not smaller than 12 points. Text shall be single spaced and a blank
16 line shall precede each main numbered item.

17
18 (3) The title and all text of form 982(a)(23) not accompanied by a
19 checkbox shall be copied word for word. All relevant text that is
20 optional (accompanied by a checkbox) shall be copied word for
21 word except that the checkboxes shall not be copied. The Judicial
22 Council number of *Proof of Service (Summons)* shall be typed as
23 follows either in the left margin of the first page opposite the last
24 line of text or at the bottom of each page: "Judicial Council Form
25 982(a)(23)."

26
27 (4) The text of form 982(a)(23) shall be copied in the same order as it
28 appears on the printed form using the same item numbers. A
29 declaration of diligence may be attached or inserted as item 3b(5).
30 Areas marked "For Court Use" shall be copied in the same general
31 locations and occupy approximately the same amount of space as
32 on the printed form.

33
34 (5) The telephone number shall appear flush with the left margin after
35 the address of the attorney or party on the same line with any
36 reference or file number.
37

- 1 (6) The name of the court shall be flush with the left margin. The
2 address of the court shall not be required.
3
4 (7) The instructions found on the printed form shall not be copied.
5
6 (8) Material that would have been typed onto the printed form shall be
7 typed with each line indented three inches from the left margin.
8 This requirement shall not apply to items 1 and 5 of the form.
9
10 (9) The material in item 5 of the form may be arranged in two
11 columns.
12
13 (b) **[Compliance with rule]** The act of filing a form under this rule
14 constitutes a certification by a party or attorney that the form complies
15 with this rule and is a true and correct copy of the form to the extent
16 required by this rule.
17

18 SAMPLE TYPEWRITTEN PROOF OF SERVICE FORMS
19

20 **[These are omitted. These sample forms would also be repealed.]**

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, state bar number, and address):</i> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> TELEPHONE NO.: E-MAIL ADDRESS <i>(Optional)</i>: ATTORNEY FOR <i>(Name)</i>: </div> <div style="width: 45%;"> FAX NO. <i>(Optional)</i>: <div style="border: 1px solid black; padding: 2px; width: fit-content;">Ref. No. or File No.:</div> </div> </div>	FOR COURT USE ONLY <div style="font-size: 2em; font-weight: bold; margin: 20px 0;">DRAFT 3</div> <div style="font-size: 2em; font-weight: bold; margin: 0 0 20px 0;">3/05/03</div>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	
PROOF OF SERVICE OF SUMMONS	CASE NUMBER:

1. At the time of service I was at least 18 years of age and not a party to this action.

2. Party served *(specify name of party as shown on documents served)*:

3. I served copies of the summons and:
 - a. ☐ complaint
 - b. ☐ cross-complaint
 - c. ☐ other *(specify documents)*:

4. Address where the party was served:

5. I served the party *(check proper box)*:
 - a. ☐ **by personal service.** I personally delivered the documents listed in item 3 to the party (Code Civ. Proc., § 415.10)
 (1) on *(date)*: _____ (2) at *(time)*: _____
 - b. ☐ **by substituted service.** I left the documents listed in item 3 to the party with or in the presence of *(name and title or relationship to respondent)*: _____
 - (1) ☐ **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the party. I informed him or her of the general nature of the papers.
 - (2) ☐ **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the respondent. I informed him or her of the general nature of the papers.

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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5. b. (3) on (date): _____ at (time): _____
- (4) I thereafter mailed (by first-class, postage prepaid) copies to the party at the place where the copies were left. (Code Civ. Procedure 415.20b) on (date): _____
- (5) A **declaration of diligence** is attached stating actions taken first to attempt personal service.
- or-
- c. ☐ **by mail and acknowledgement service.** I mailed the documents listed in item 3 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): _____ (2) from (city): _____
- (3) ☐ with two copies of the *Notice and Acknowledgment of Receipt* (form 982(a)(4)) and a postage-paid return envelope addressed to me. (Attach completed *Notice and Acknowledgment of Receipt* (form 982(a)(4).) (Code Civ. Procedure, § 415.30)
- (4) ☐ to an address outside California (by registered or certified mail with return receipt requested) (Attach signed return receipt or other evidence of actual delivery to the respondent.) (Code Civ. Procedure, § 415.40)
- d. ☐ **by other legal means** (specify code section): _____
- ☐ Additional page describing service is attached.
6. The "Notice of Person Served" (on the summons) was completed as follows:
- a. ☐ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (specify): _____
- c. ☐ On behalf of (specify): _____
- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor) ☐ other: _____
- ☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
- ☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (individual)

7. Person who served papers

- a. Name: _____
- b. Address: _____

- c. Telephone number: _____
- I am: _____

- (1) ☐ Exempt from registration under Business and Professions Code section 22350(b).
- (2) ☐ Not a registered California process server.
- (3) ☐ Registered California process server.
- (i) ☐ Employee or independent contractor.
- (ii) Registration no.: _____
- (iii) County: _____

- d. **The fee** for service was: \$ _____

8. ☐ **I declare** under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

9. ☐ **I am a California sheriff, marshal, or constable and** I certify that the foregoing is true and correct.

Date: _____

(NAME OF PERSON WHO SERVED PAPERS)	(SIGNATURE OF PERSON WHO SERVED PAPERS)
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